

## CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 89-1

June 6, 1989

### FINANCIAL CORPORATION OFFSET

#### Syllabus:

AB 66 (Stats. 1979, Ch. 1150) amended Revenue and Taxation Code §23182 to include financial corporations in the in lieu provisions, thereby exempting them from various taxes allowable as an offset under §23184 for income years beginning January 1, 1981 and thereafter. It also amended §23184(a)(3) to disallow use tax paid by savings and loan associations as an offset on or after January 1, 1980.

Although Revenue and Taxation Code §23184 is therefore no longer of general applicability, as explained in Revenue and Taxation Code §23184.5, litigation is pending regarding the application of Revenue and Taxation Code §23182 with respect to business license taxes imposed by charter cities on financial corporations. If the final determination is that charter cities may impose those taxes, Revenue and Taxation Code §23184 will again be applicable.

Legal Ruling 331, August 2, 1968, held that payments made by financial corporations in discharge of personal property taxes pursuant to lease agreements are in the nature of rent rather than payment of taxes, as the tax obligation arising from the ownership of property was solely on the lessor.

Revenue and Taxation Code §405, as amended in 1981, now allows the assessor to assess personal property jointly to the lessor and lessee, or separately to the persons owning, claiming possessing or controlling it on the lien date. As a financial corporation may now be held directly liable for payment of personal property taxes on leased property, payment of such taxes can be treated as payments to which Revenue and Taxation Code §23184 would apply. Legal Ruling 331 therefore no longer reflects current law and is withdrawn and replaced by this ruling.

Legal Ruling 360, July 6, 1973, held that savings and loan association lessees are entitled to an offset for use tax paid on leased property. AB 66 (Stats. 1979, Ch. 1150) amended Revenue and Taxation Code §23184(a)(3) to disallow use tax paid by savings and loan associations as an offset on or after January 1, 1980. As the holding of Legal Ruling 360 was overturned by this statutory amendment, Legal Ruling 360 is withdrawn.

#### EFFECT ON OTHER DOCUMENTS

Legal Rulings 331 and 360 are withdrawn.

#### DRAFTING INFORMATION

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